



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Social Justice and Social Security Committee

Thursday 28 October 2021

Session 6



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**SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE**  
**8<sup>th</sup> Meeting 2021, Session 6**

**CONVENER**

\*Neil Gray (Airdrie and Shotts) (SNP)

**DEPUTY CONVENER**

Natalie Don (Renfrewshire North and West) (SNP)

**COMMITTEE MEMBERS**

\*Jeremy Balfour (Lothian) (Con)  
\*Miles Briggs (Lothian) (Con)  
\*Foyso Choudhury (Lothian) (Lab)  
\*Pam Duncan-Glancy (Glasgow) (Lab)  
\*Marie McNair (Clydebank and Milngavie) (SNP)  
\*Emma Roddick (Highlands and Islands) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jana Eyssel (Scottish Government)  
David Hilber (Scottish Government)  
Ben Macpherson (Minister for Social Security and Local Government)  
Jennifer Sinclair (Scottish Government)  
Evelyn Tweed (Stirling) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Claire Menzies

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Social Justice and Social Security Committee

Thursday 28 October 2021

*[The Convener opened the meeting at 09:00]*

### Subordinate Legislation

#### Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [Draft]

**The Convener (Neil Gray):** Good morning, everybody, and welcome to the eighth meeting in 2021 of the Social Justice and Social Security Committee. I ask all members to ensure that their mobile phones are on silent. Apologies have been received from Natalie Don, and Evelyn Tweed is attending as Natalie's substitute.

This morning, we are considering two Scottish statutory instruments. As outlined in the agenda, we will start with the draft Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 before considering the draft Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021. There will be the opportunity for a changeover of officials between agenda items 2 and 3.

I welcome to the meeting Ben Macpherson, Minister for Social Security and Local Government, and Jennifer Sinclair, social security policy manager at the Scottish Government. Online, we are joined from the Scottish Government by David Hilber, team leader of case transfer policy, and Kirsten Simonnet-Lefevre, principal legal officer.

Before we move to questions from members, I invite the minister to make an opening statement on the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021.

**The Minister for Social Security and Local Government (Ben Macpherson):** Good morning. The regulations are required to support the introduction of child disability payment. For context, we started taking applications for child disability payment on 26 July, as part of a pilot. Child disability payment is the first regularly recurring disability benefit to be delivered by Social Security Scotland, and it will make a significant contribution to the lives of disabled children and young people in Scotland, their families and their carers. Feedback on the pilot

has been positive so far. Its systems and processes are working well, and we remain on track to roll out child disability payment nationally from 22 November 2021.

Moreover, as I set out in my recent letter to the committee, 11 October marked the beginning of our ambitious case transfer process. The first disability living allowance for children awards have now been selected for transfer to child disability payment. Those individuals will continue to get the right payment at the right time, and they will not have to apply or be reassessed as part of the transfer process.

In relation to the regulations, the amendments that we are proposing are largely technical in nature. The amendments were identified as necessary after the principal regulations were passed. There is significant complexity in the principal regulations, in the case transfer process and in the interactions with the reserved system. The changes that we are seeking to make will reflect that, leading up to the national delivery of the benefit, we are continuously learning lessons and identifying areas in which we can improve arrangements.

The amendments will allow for young people to remain on CDP after the age of 18 in specific circumstances. They will clarify the period in which Social Security Scotland has to complete a redetermination, and they will extend the number of scenarios in which short-term assistance is payable. The changes will introduce further flexibility, bring more fairness to decision making and help to improve outcomes for disabled children and young people.

The amendments will enable child disability payment awards for case transfer clients to be backdated when one or more of the exceptions that are set out in the regulations are met. The exceptions relate to situations in which child disability payment awards resulting from the transfer process can be higher than the disability living allowance for children awards that they replace, due to differences in eligibility rules between the two benefits.

The backdating provisions ensure that those whose awards are selected later in the transfer process are not disadvantaged compared with those whose awards were chosen earlier, when one of the exceptions applies. Those rules were not included in the principal provisions because discussions with the Department for Work and Pensions on the effects of backdating on reserved systems were on-going at that point.

Although we expect the exceptions to apply to only a very small number of individuals, if any, it is important that no one whose award is transferred

is worse off than they would have been had they made a new application. Consistency is important.

Before I conclude, I emphasise that I remain extremely grateful to Dr Sally Witcher and the Scottish Commission on Social Security for its scrutiny of the regulations and for its general work, leadership and scrutiny. However, I note that the case transfer provisions fall outwith its remit; that is an important point.

I welcome the opportunity to assist the committee in its consideration of the regulations and I look forward to any questions that members may have.

**The Convener:** Thank you, minister. That is very helpful. I move to questions from colleagues. Some colleagues have indicated in advance that they would like to ask questions on certain areas; if others would like to come in, I ask them to indicate that to me in the normal way, whether in person or online. That would be very helpful.

**Pam Duncan-Glancy (Glasgow) (Lab):** Good morning, minister and others. Thanks very much for joining us, and thank you for setting that out; it was helpful.

I start on the point that you have just discussed: the role of SCOSS. I, too, put on record my thanks for the helpful work that it does in getting through what is quite complex material. However, what worries me slightly is that we are again in a circumstance where SCOSS has felt that it has not had the time that it needed to properly scrutinise the regulations. In fact, it has said that that has meant that there has not been significant stakeholder engagement, which I think is of concern.

In the past, I have written to the Government asking for details of the timetable for delivery because, since I came to the Parliament in May, on everything that we have looked at in this committee in particular, we have been told that there is not much time. I seek reassurance that you are going to plan for that delivery, that you know at what stages things are going to be done and that you will try to give the appropriate time for scrutiny rather than rush things through. We have had control of these benefits since 2018, and it is unhelpful if we are always being told that there is not much time to scrutinise things. Will you confirm that there is a plan for the further roll-out and that there will be time for scrutiny?

**Ben Macpherson:** Thank you for those important questions.

First, I emphasise that we are in a most significant period in the devolution of social security, with the on-going pilot of CDP and its national roll-out from 22 November and as we go

into the roll-out of adult disability payment next year.

On supporting SCOSS and making sure that it is able to undertake its role effectively and properly, we absolutely recognise that it does an invaluable job, as you and I have emphasised, and we are committed to providing both the time and the resources to allow it to do that properly. Ministers meet the chair and will meet the board soon and regularly engage with it. I emphasise that point. We acknowledge that SCOSS has been under pressure and we will always work with it as flexibly as we can to make sure that the demands on its workload are part of our considerations and that we are mindful of them. We work as flexibly as we can, for example in sharing drafts and providing additional information.

However, for both the Government and SCOSS, social security legislation is complex and is fast moving at this time. We aim to provide two months for the scrutiny of regulations but, as you have noted, that is not always possible.

It may be helpful if I remind the committee and emphasise that, in order to provide additional support, we are recruiting an additional two members of staff to support SCOSS, and that, when people are in post, the total secretariat resource will have more than doubled since the election; it will go up to five people. We are also recruiting an additional board member, as you may already be aware.

I turn to the points about the elements of the regulations that are before us that could not be scrutinised by SCOSS: the provisions on case transfer from disability living allowance to CDP. Those provisions were made under section 95 of the Social Security (Scotland) Act 2018 and there is no requirement under the act to refer provisions made under section 95 to SCOSS. Considering SCOSS's incredibly busy programme of work on a variety of regulations, we did not wish to request the scrutiny of provisions that fall outwith its remit. That is why we did not refer those regulations. However, some provisions were shared for information and context to keep SCOSS sighted.

I hope that that reassures the member about the importance that we place on SCOSS's work, the evaluation that it provides and the stakeholder engagement of which it is a part. We are determined to work collaboratively with SCOSS to ensure that it is suitably resourced in the future.

**Pam Duncan-Glancy:** I am reassured in relation to the work around SCOSS, but not so much in relation to planning for future regulations and ensuring that there is enough scrutiny and time for scrutiny, so that we do not have to continually rush. As I said, we have had control of the benefits since 2018, but it feels as if we keep

getting a set of regulations or a piece of primary legislation that we are told has to be done quickly. I want to do as much as possible, as fast as possible, because we need to get money in people's pockets, but can you reassure us that the Government has a plan to ensure that everything is on schedule and that we know at what point things will come to the committee so that we are not continually rushing?

**Ben Macpherson:** The point about the primary legislation that was passed before the recess is almost a separate area of consideration, although I note and appreciate the accelerated timescale that we all engaged in to ensure that there was an additional December payment of the Scottish carers allowance supplement.

However, in regard to regulations more generally, looking back, we can see that the pandemic has had an effect on the delivery timetable. We are now in the process of working towards the important delivery timeframes for both CDP and ADP. The amendments to the regulations that we are considering are about improving the regulations following the experience of the pilot and consideration by the Government and Social Security Scotland on how to do the right thing and make improvements in advance of the national roll-out on 22 November 2021.

It is a fast-moving situation, because we are all determined to deliver social security benefits in Scotland and deliver them well. I would be happy to take that point away if you think that it would be helpful for us to set out any further information on the timetable.

**Pam Duncan-Glancy:** Yes, that would be helpful.

**The Convener:** Yes, that is a helpful suggestion. I am hoping that the committee can liaise with the Minister for Parliamentary Business on the timetable and the timescales. On the points that Ms Duncan-Glancy raises on SCOSS, your proposal to outline the resources would be very helpful and welcome, minister. We will continue to liaise with SCOSS to ensure that it has the capacity to carry out its scrutiny work.

**Jeremy Balfour (Lothian) (Con):** I want to pick up the same point as Pam Duncan-Glancy. Minister, it would be helpful if you could write to us with the timetable of when things are likely to come to the committee.

According to your letter, the regulations were not seen by any stakeholders. Is it correct that there was no consultation with stakeholders? I appreciate that the amendments are quite technical, but I just wanted to check whether that was the situation.

**Ben Macpherson:** I will bring in David Hilber because he has been leading on development of the case transfer aspects of the regulations. Is that what you meant, Mr Balfour?

**Jeremy Balfour:** Yes.

**David Hilber (Scottish Government):** That is right; the amendments are very technical. Most of them relate to how the case transfer process relates to the reserved system and ensuring that, with the introduction of backdating—something not typical of disability benefits in general—the way in which those interactions will work is correct. We did not carry out a range of stakeholder activity on those provisions, but we are confident that they are correct. We have worked closely with the Department for Work and Pensions to make sure that they work well, and we are more confident that they will work as intended.

09:15

**Jeremy Balfour:** I want to move on to two more technical areas, the first of which relates to the recommendation, which you have not accepted, that people receiving CDP be eligible for short-term assistance if they are moving on to ADP. Why have you said no to that? We have said—and rightly so—that we want to treat people with dignity, fairness and respect but, given that they are already in the system and have already proved that they need the assistance, those receiving CDP should be treated as transferring to ADP instead of as new claimants. Why are we making them go back and reapply? It seems to me that we are not treating people with the respect that we had hoped for.

**Ben Macpherson:** I take it that you want me to talk about short-term assistance, but do you want me to talk about the more general question of whether you can transfer from CDP to ADP, too?

**Jeremy Balfour:** The question is more about those who are moving on to ADP having to reapply, given that they are already on the system and have been identified as having a need that requires them to receive benefits.

**Ben Macpherson:** Thank you for that clarity—I thought that you were asking about both issues. I will also briefly touch on short-term assistance at the end of my remarks, if I may.

The initial position that we have to consider is that CDP and ADP are different forms of assistance with different eligibility criteria. A person applying for CDP knows that they can be on that benefit only until the age of 18, but the fact is that they can also apply for ADP from the age of 16. I should also point out that, although a person can be on CDP only until they are 18, there are certain circumstances in which, if these

regulations are passed and if there is good reason, we can continue that payment. I can go into those in more detail, if that would be helpful to the committee.

Given that these are different forms of assistance with different eligibility criteria, treating this process simply as a transfer would mean that the information that is held by Social Security Scotland in relation to a CDP award would, for many clients, likely not be sufficient for a decision on entitlement to ADP to be made, and we would need to ask clients to provide further supporting information if they were making an application for ADP. That is why a new claim will have to be made, but I again point out that clients will have two years to do so. I would also point out that the transition from DLA to the personal independence payment also requires a new application for the same reason. Given that this is in the best interests of all CDP clients, individuals on CDP will be required to make a new application to ADP with—and this is an important point—extensive and on-going support and advice being made available to young people and their families as they undertake the process.

I emphasise for the sake of clarity that we intend to make the process as smooth as possible with no gap in payment, which will obviously be very important in ensuring that it is less disruptive than the current system. It should also be noted that SCOSS has welcomed the additional flexibility in the system, commenting that it is likely to strengthen the rights of clients undergoing this process, and we therefore consider that this process and approach represent the best client journey for all clients.

As for short-term assistance, I remember our sitting around this table, discussing the bill that led to the Social Security (Scotland) Act 2018, and how, at the time, it was highlighted that this new initiative was being introduced for a good reason. It is for people who have experienced a loss of or reduction in award as a result of a determination and have requested a redetermination or appeal, and it is not available to those moving between different forms of assistance. If we were to extend the scope of such assistance to cover those transitioning between CDP and ADP, that would represent a fundamental departure from the policy intent of short-term assistance. As I have said, the transition from CDP to ADP has been designed to be as easy as possible for clients and their families, and we do not envisage short-term assistance being a significant consideration in that process. However, we will monitor the process on an on-going basis to understand whether and how further support can be provided to clients.

**Jeremy Balfour:** I am grateful for that helpful explanation, minister.

I do not want to hold back the committee's considerations for too long—I understand that this is quite technical stuff—but I am slightly unclear about a certain point. I know that there are different criteria for deciding whether someone gets DLA or PIP, but my understanding—perhaps you can help me by providing more information later—was that the criteria with regard to CDP and ADP would be the same. I did not appreciate that the criteria for the awards will be different, so I wonder whether you can explain the issue a bit further in a letter to me. As I said, I do not want to delay the committee's considerations—obviously, we are going to agree to the motion today—but I wonder whether it would be possible to provide an explanation, just for my information.

My next question—you will be glad to hear that it will be my final one—relates to the use of the phrase “throughout the night” with regard to awards. I remember raising this issue when the proposals were originally brought forward, and I note that you have changed things back to what they were. Welcome that, but I have to wonder why it all happened in the first place. Did you make the change because of consultation, because it had been a simple drafting error or because of some great intervention by back-bench MSPs?

**Ben Macpherson:** On your request for clarification, I am happy to take that away with me. As I have said, though, the information provided for a CDP award would likely not be sufficient to make a decision on entitlement to ADP for many clients, though it could be enough for some.

I think that Jennifer Sinclair wants to respond on this issue.

**Jennifer Sinclair (Scottish Government):** To build on what the minister has said, I think that there was a recognition that the eligibility criteria would be different and that, to ensure that people did not miss out on their full entitlement, the safest and most secure method would be for them to apply for ADP. The ADP regulations will be coming before the committee, so members will have a chance to discuss the issue in more detail.

With regard to short-term assistance, I think that the policy intent was to support people who were challenging decisions on the same type of assistance, not those who were transitioning to new types of assistance. That is the focus of the policy, and that is why we will not be making such assistance available for transition.

**Ben Macpherson:** We will take the issue away and, if we can provide the committee and Mr Balfour with any further information, we will be forthcoming in that respect.

As for Mr Balfour's second question about why the Scottish Government has changed its mind



about the phrase “throughout the night”, the issue was, as the member might recall, discussed by the committee back in March, and it was agreed by the then cabinet secretary that we would closely monitor the issue to ensure that our intent was carried out. The term was initially used to be consistent with the use of the term “throughout the day”, but we have changed that, now that the sector is more comfortable with the phrase “at night”.

In direct answer to your question, therefore, we have changed the wording in relation to night-time care needs from “throughout the night” to “at night” to feed back on concerns that a different criterion on the level of care would be applied under CDP from that currently applied under disability living allowance for children. SCOSS has welcomed the regulations’ amendment of the phrase “throughout the night” to “at night”, saying that the changes in the wording will put beyond doubt what the requirements are and

“reduce scope for uncertainty about how much care is required to constitute ‘throughout the night’”.

I hope that that answers your question, Mr Balfour.

**Jeremy Balfour:** I thank the minister for that answer, and I am grateful for the change. Although it may seem quite technical in its terminology, it will make a very big difference to many people who are applying, so I welcome it.

I put on record my thanks to your team, minister, for all the work that they have done on the regulations. They are technical, but they will be very important for the people applying. Again, I thank your team for that, and thank you for the changes that you have made.

**The Convener:** Thank you, Mr Balfour and minister. I reiterate those thanks on behalf of the committee.

**Marie McNair (Clydebank and Milngavie) (SNP):** I share the concerns that have been raised by Pam Duncan-Glancy about the capacity that is available to SCOSS to scrutinise properly, and I wanted to put that on record.

Mr Balfour has kind of asked my question regarding short-term assistance, but how different are the criteria between CDP and ADP?

**Ben Macpherson:** I would simply refer to my previous answers and to the extra information that Jennifer Sinclair provided. As I stated, there is a difference between situations where there are considerations around people who experience a loss or reduction in award as a result of a determination and who have requested a redetermination or an appeal, and a situation of transfer. However, as I stated, we will of course monitor the process to understand whether and how further support can be provided to clients.

I emphasise the support and advice that there will be for people in that two-year window—in most cases—where they are on CDP, aged over 16 and heading towards 18. Support will be provided to help them in their journey to applying for the adult disability payment.

**Marie McNair:** Regarding access to short-term assistance payments, the Scottish Commission on Social Security suggested that

“the CDP claimant who applies for ADP might well be protected by the non-discrimination provision of the European Convention on Human Rights.”

What is your view on that? Has legal advice been sought about it?

**Ben Macpherson:** Could you be more specific with that question?

**Marie McNair:** The Scottish Commission on Social Security suggested that a recipient who then

“applies for ADP might well be protected by the non-discrimination provision of the European Convention on Human Rights.”

I am just asking what your view is on that. Has legal advice been sought? If you do not have the information to hand, you could certainly pass it on to the committee, or you could write to me later.

**Ben Macpherson:** I would like to take that away—unless Jennifer Sinclair wishes to add anything.

**Jennifer Sinclair:** That is one of the more technical points. There is a legal risk, which needs to be explored. We would be happy to write back to the committee.

**Marie McNair:** I would welcome feedback on that.

**Pam Duncan-Glancy:** On human rights and on short-term assistance, I think that the inclusion of that assistance is really welcome, and I am pleased to say that it will make a material difference to people’s lives.

I understand that the criteria are different for the two payments, but offering someone short-term assistance at a really difficult time in their life, during a transition period, would not be giving them a guarantee to the next benefit, which has different eligibility criteria; it would merely be easing that process, in what would be a relatively sensible way, as the two benefits might not be called the same, but they are the same type of benefit. Might you reconsider the matter on that basis?

**Ben Macpherson:** I thank Pam Duncan-Glancy for making those points on that important aspect regarding short-term assistance. I will bring in Jennifer Sinclair in a minute, but it is important to

recognise that, as individuals make their journey from CDP to ADP in the period between the ages of 16 and 18—in most circumstances—the payment of their CDP will continue either until they move to ADP or until they become 18 and are ineligible.

The question of short-term assistance, therefore, is less of a material consideration. We have, of course, considered the matter in the round and, as I have stated several times now, we will for good reason continue to keep it under review to see whether any further support can or should be provided.

09:30

**Jennifer Sinclair:** I re-emphasise the point that the CDP eligibility criteria broadly replicate those for the disability living allowance and that the adult disability payment eligibility requirements mirror those for the personal independence payment. Those criteria might be the same, but the fact is that the eligibility criteria for the CDP and ADP do not mirror each other, and we have to consider such things carefully.

As the minister has said, the ability that we have built in to pay people CDP beyond the age of 18 as they await a determination on ADP will provide added flexibility and security to ensure that there is no break in entitlement and that they get their money. They might not get the same amount on ADP that they were awarded on CDP, but there will be no breaks over that period. That is what we are aiming to do as best as we possibly can.

**Ben Macpherson:** Of course, the provision to continue payments until a determination is made is in the regulations that are under consideration today. I am sure that that important change will be welcome.

**The Convener:** As there are no further questions, we move to agenda item 2, which is the formal debate on the motion. I remind the committee that only members and the minister may take part in the formal debate, and I invite the minister to move motion S6M-01183.

*Motion moved,*

That the Social Justice and Social Security Committee recommends that the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [draft] be approved.—[*Ben Macpherson*]

*Motion agreed to.*

**The Convener:** Given the timing issue, I invite colleagues to agree that the clerks and I will produce a short factual report of the committee's decision and arrange to have it published. Are members content with that?

**Members indicated agreement.**

**The Convener:** I thank colleagues who have joined us either in person or virtually for their time this morning, and I suspend briefly to allow a changeover of officials.

09:32

*Meeting suspended.*

09:35

*On resuming—*

### **Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [Draft]**

**The Convener:** Item 3 is consideration of the draft Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021. The minister is now joined by Jana Eyssel, who is the disability benefits policy manager in the Scottish Government. Online we have Stephanie Virlogeux, senior principal legal officer, and a further legal representative from the Government, Natalie Barton. I ask the minister to make an opening statement.

**Ben Macpherson:** Our intention behind the child winter heating assistance has always been to mitigate the increased heating costs that the families of the most severely disabled children and young people incur as a result of having to sustain a higher temperature at home during winter due to the child's or young person's disability or long-term condition and having to heat their homes in the night due to night-time care needs.

When we launched the payment last year, we decided to base eligibility on entitlement to the highest rate of the care component of DLA. To receive that rate, an individual must need help or supervision throughout the day and night. At the time, we considered that to be an appropriate proxy for identifying individuals with the most severe needs who were likely to have increased heating costs.

Earlier this year, two individuals raised appeals in the First-tier Tribunal for Scotland after being determined ineligible for child winter heating assistance. Both had previously been entitled to the higher rate of the DLA care component. However, as a result of United Kingdom Government policy, on turning 16, they had to transfer to PIP. The appellants argued that it was unfair that they were not eligible for child winter heating assistance simply because of that required transfer.

Those appeals and stakeholder feedback prompted us to reconsider the regulations and the extent to which they meet the policy objective. That resulted in the draft amendment regulations

that are before us, which extend eligibility for child winter heating assistance to individuals aged 16 to 18 who are on the enhanced rate of PIP daily living component.

The proposed regulations will allow child winter heating assistance to be paid to people who lost out last year. They will also remedy the situation going forward until the case transfer to CDP is completed. Moreover, they will ensure that we provide the payment to all the most severely disabled 16 to 18-year-olds in Scotland.

If the regulations are passed, this year's payment will reach an additional 5,000 clients approximately, which will take the total number to more than 19,000. With energy prices rising substantially, that is an important step in our collective efforts to support some of society's most vulnerable people.

I am grateful to Dr Sally Witcher and the Scottish Commission on Social Security for their assistance. I am also grateful to the individuals and stakeholders who have engaged constructively with us.

I welcome the opportunity to assist the committee in its consideration of the draft regulations and look forward to any questions that members have.

**Jeremy Balfour (Lothian) (Con):** I have a policy difference with you, minister, in that, for me, the way to resolve the issue would have been to give any child who was on DLA or PIP the winter heating allowance. They would not have to be on the highest rate. I think that I made that point in committee in the previous session of the Parliament.

If we are talking about heating your house, you often do that during the day. It is not often at night, when you are in bed and can have less heating on. The draft regulations still exclude children who are on the lower rate of DLA or not on the higher rate of PIP from getting the payment. Why are you doing that if we are trying to help people who have higher heating costs? They are vulnerable individuals as well. What is the policy intent behind that?

**Ben Macpherson:** As I set out in my opening statement, our priority in this situation is to provide financial help to households with the most severely disabled children and young people, to mitigate increased costs that result from their potentially having to heat their homes to higher temperatures during winter and throughout the day and night. It is important to recognise that we are the only part of the UK to do that.

We consider that the highest rate of the care component of DLA and CDP and the enhanced rate of the daily living component of PIP are a

reasonable proxy for identifying those with the highest care needs who might incur increased heating costs over winter. We therefore decided to extend entitlement to child winter heating assistance to all the young people who are entitled to the enhanced rate of the PIP daily living component only.

We appreciate that considerations are on-going around the general issue of energy costs and heating. The committee will note that, in its report on the draft amendment regulations, SCOSS recommended that,

"Following completion of the transition from DLA and PIP to CDP and ADP, the Scottish Government should review passporting arrangements to CWA, to ensure consistency and equitable treatment of people with the same relevant needs, including specifically with regard to night-time care needs",

and we accepted that recommendation. We also have a firm commitment to the formal evaluation and improvement of our social security payments that is based those findings. The evaluation results for child winter heating assistance will be available next year and we will, of course, consider the report's findings carefully.

**Jeremy Balfour:** It is a missed opportunity.

On a technical point, you have removed a requirement to make the payment by 31 December. Why not either put in a later deadline or just meet the deadline of 31 December? Why is there a delay in making that payment?

**Ben Macpherson:** We have thought carefully about the matter. It is important to emphasise that we still intend to pay eligible child winter heating assistance clients as quickly as possible and that we expect to pay the vast majority of the more than 19,000 eligible children and young people by the end of the year. I just want to make that clear.

This year, making payments safely to everyone will require additional time and care. If regulations are passed that extend eligibility to around 5,000 young people who are in receipt of PIP, client data will come from a brand new source, which will mean an increase in client volumes, and we need to consider the practicalities around that.

In the event that payments are not made by 31 December, we expect that fewer than 10 per cent will be impacted. However, as I said, our intention is that the vast majority will be paid before 31 December.

It is also important to emphasise that it makes sense to provide support when it is needed most. We have thought about that point carefully. As we know, the coldest months in Scotland tend to be January and February, and user research suggests that some clients would prefer to receive their winter heating benefits in those months.

Removing the deadline might help us to meet the needs of clients by paying benefits at a time that suits them best. It will be a consideration for us next year, once we are able to evaluate this year's process and reflect on the feedback that we have received.

It is important to appreciate that, with the launch of CDP and the start of case transfer for children from DLA to CDP, Social Security Scotland enters a crucial and complex phase in its work this winter. The flexibility that we will gain around making determinations on child winter heating assistance cases through the removal of the 31 December deadline will ensure that Social Security Scotland will be able to deliver all its benefits to a high standard and on time, to the ultimate benefit of all our clients.

We are determined to deliver to as many clients as possible by 31 December, and we are confident that the vast majority of people will get their payment before then. Removing the deadline will give us the flexibility to consider, next year and in the years after, whether payment in a different period during the winter would be more advantageous for more clients.

09:45

**Pam Duncan-Glancy:** On Jeremy Balfour's question about the deadline, I take your point that people might prefer to receive payment in January or February. It would be good to see the research on that. Maybe that means that you could just move the deadline to those dates. I feel that a deadline gives people certainty. It is also consistent with what you require people who are applying for benefits to do, as they have a number of stringent deadlines. It would be much more congruent to say, "We have deadlines, just as you have deadlines," instead of, "You have deadlines but we have none." I think that that would be a proper way forward.

My question is on eligibility. As we know, over half of people who are living in poverty have a disabled person in their household, and that can be a person with a disability of any severity. If we are looking to reduce levels of poverty—and levels of child poverty, as 34 per cent of children in poverty live in a household with a disabled person in it—it is really important that we look at those criteria.

There are significant levels of fuel poverty in Scotland, and we know that, regardless of age or severity of impairment, disabled people have higher costs of living and are more likely to live in poverty. This is an opportunity for us to do something to significantly address that by making the winter payment. I guess that I am making a policy point. I am asking whether you recognise

that that is one way in which you could begin to reduce the poverty that all disabled people, not just those with the most severe conditions, face.

**Ben Macpherson:** I have spoken already about eligibility, and, in the interests of time, I do not want to repeat what I have said. However, I emphasise that the policy is being met by what we have done in introducing regulations in 2020 and in seeking to improve them today.

As Pam Duncan-Glancy rightly emphasises, the regulations are part of our wider consideration of support for families who are in the most need and our consideration of winter benefits. As the committee will be aware, we are also preparing to introduce two additional new benefits to support households with their heating costs during the winter. Pension age winter heating assistance will replace winter fuel payments, and low-income winter heating assistance will support around 400,000 households that are on low incomes in due course.

We also recognise the need to consider further targeted support for disabled adults of working age, in acknowledgment of the fact that households with a disabled person, irrespective of their age, are more likely to be in financial difficulties, as Pam Duncan-Glancy said. We will therefore continue to consider whether—and, if so, how—we can better support disabled adults over the winter months.

However, at the moment, the focus of our efforts is on prioritising support for the most vulnerable children and young people, which is what this benefit and the improvement regulations are about.

**Pam Duncan-Glancy:** Thank you.

**Miles Briggs (Lothian) (Con):** Good morning. I will carry on that line of questioning. What work has been undertaken to identify those with the greatest unmet need? Specifically, has there been work with charities such as Children's Hospices Across Scotland to see whether we can encourage people to come forward? I understand what the minister said about it being early days for this benefit, but is the Government actively looking at doing such work?

**Ben Macpherson:** I thank Mr Briggs for what is a good question. The Government continues to engage the third sector in our consideration of social security in general. Our engagement with SCOSS and the disability and carers benefits expert advisory group, as well as with third sector organisations, forms part of our core work.

I have talked about the evaluation that we are undertaking. Although that will be an internal matter, we will receive considerations from third sector organisations through not only official but

ministerial engagement. I will ask Jana Eyssel to talk about the official engagement that there has been, or which might be on-going, but it is important to emphasise the formal process of engagement through SCOSS, which provides stakeholder input.

**Jana Eyssel (Scottish Government):** Child winter heating assistance was addressed in our consultation. As the minister has pointed out, because it is an automated payment, we use the highest rate of the care component of DLA and CDP—and, if the amendment regulations are passed, the enhanced rate of the daily living component of PIP—as a proxy to understand which children and young people need the payment most.

**Miles Briggs:** Thank you for that, but my line of questioning was more to do with those who might not currently be in receipt of benefits but who would benefit from this. It is, I think, a question about unmet need, and it might be useful if we reached out to those third sector organisations that are actively raising the issue with MSPs across the parties, to find out and scope how we can increase and extend potential uptake.

**Ben Macpherson:** I take the point. Indeed, in the period ahead, we will be discussing together and in a collegiate way the benefit take-up strategy and how we can work through not just the Government but all available channels to raise awareness of what is available and encourage take-up. It is an incredibly important issue in which the Government is very seriously and proactively engaged.

I am happy to give Mr Briggs an undertaking that I will continue to receive stakeholder feedback, whether from CHAS or from others. Indeed, we have formal processes in that respect. However, I also note that the changes before us today are based partly on stakeholder feedback. I hope that it reassures Mr Briggs, the committee and those who are listening that the regulations that we are seeking approval of today have been based somewhat on that feedback.

**The Convener:** As there are no further questions, we move to the formal debate on the motion. I remind the committee that only committee members and the minister may take part. I invite the minister to move motion S6M-01319.

*Motion moved,*

That the Social Justice and Social Security Committee recommends that the Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [draft] be approved.—[*Ben Macpherson*]

*Motion agreed to.*

**The Convener:** Do colleagues, in the interests of time, agree that the clerks and I will produce a short factual report on the committee's decisions and arrange to have it published?

**Members indicated agreement.**

**The Convener:** I thank the officials and the minister for their attendance today. That concludes the public part of this morning's meeting.

09:54

*Meeting continued in private until 10:28.*



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